

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:03-CR-195-FL-1

UNITED STATES OF AMERICA,)
)
 v.)) ORDER
)
 AL JAMES SMITH,)
)
 Defendant.)

This matter is before the court on defendant's pro se motion to modify presentence investigation report (DE 119)¹ pursuant to Federal Rule of Criminal Procedure 36. Defendant alleges that paragraph 40 of this presentence investigation report ("PSR") erroneously describes one of his prior North Carolina convictions as conspiracy to commit robbery with a dangerous weapon. According to defendant, the actual offense of conviction is conspiracy to commit common law robbery. The government does not oppose defendant's request to modify his presentence report to correct the foregoing clerical error. See also United States v. Vanderhorst, 927 F.3d 824 (4th Cir. 2019) (explaining PSR is an "other part of the record" amenable to correction for clerical errors under Rule 36); (DE 126). Accordingly, the instant motion (DE 119) is GRANTED, and paragraph 40 of defendant's PSR is hereby MODIFIED by replacing "Conspiracy to Commit Robbery w/ A Dangerous Weapon" with "Conspiracy to Commit Common Law Robbery." Except as expressly modified herein, the terms of the PSR remain in effect. All other terms and conditions of defendant's convictions and sentence, as reflected in the

¹ Also pending is defendant's motion for compassionate release (DE 122), which the court will address by separate order.

March 15, 2004, judgment, also remain in effect.

SO ORDERED, this the 12th day of January, 2021.


LOUISE W. FLANAGAN
United States District Judge